

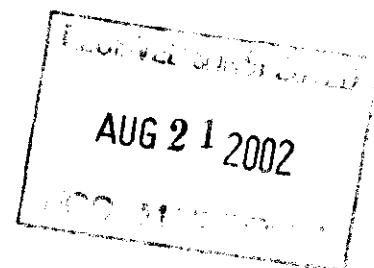
Federal Communications Commission
Washington, DC 20554

In the Matter of)
 Request for Review of the)
 Decision of the)
 Universal Service Administrator by)
 Watervliet School District)
 Watervliet, New York)
 Federal-State Joint Board on)
 Universal Service)
 Changes to the Board of Directors of the)
 National Exchange Carrier Association, Inc.)

File No. SLD-275615

CC Docket No. 96-45

CC Docket No. 97-21 ✓

**ORDER****Adopted: August 8, 2002****Released: August 9, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Watervliet School District (Watervliet), Watervliet, New York, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Watervliet seeks review of SLD's denial of its application for discounts under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Watervliet's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the

¹ Letter from John Heid, Watervliet School District, to Federal Communications Commission, filed July 23, 2001 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.⁶

3. At the start of an application review, SLD utilizes what it calls "minimum processing standards" to facilitate the efficient review of the thousands of applications requesting funding.⁷ These minimum processing standards require an applicant to provide at least the basic data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits a FCC Form 471, SLD performs an initial visual inspection of the application to determine if the application has omitted an item required by the minimum processing standards. In such a case, SLD automatically returns the application to the applicant without considering the application for discounts under the program.⁸

4. At issue here is SLD's decision to deny Watervliet's application for Funding Year 2001.⁹ On March 22, 2001, SLD issued a letter to Watervliet stating that Watervliet's FCC Form 471 did not meet Minimum Processing Standards and would not be processed.¹⁰ SLD's Rejection Letter explained that the FCC Form 471 that Watervliet submitted was incomplete.¹¹

5. Watervliet appealed to SLD, asserting that it had sent a complete application to SLD.¹² Watervliet's appeal explained that the FCC Form 471 application at issue was sent via Federal Express with multiple other applications forms and it believed that the missing Block 6 was likely mistakenly attached to one of the other applications.¹³ Watervliet also submitted two Block 6 certification pages with its SLD appeal, one dated January 17, 2001 and another dated April 18, 2001.

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.504(c); see SLD website, Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Minimum Processing Standards).

⁸ Minimum Processing Standards.

⁹ In prior years, this funding period was referred to as Funding Year 4. Funding years are now described by the year in which the funding period starts. Thus the funding period which begins on July 1, 2001 and ends on June 30, 2002, previously referred to as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2002 and ends on June 30, 2003, is now known as Funding Year 2002, and so on.

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Co., to John Heid, Watervliet School District, dated March 22, 2001.

¹¹ *Id.*

¹² Letter from John Heid, Watervliet Public Schools, to Schools and Libraries Division, Universal Service Administrative Co., filed April 20, 2001.

¹³ *Id.*

6. On June 26, 2001, SLD denied Watervliet's appeal.¹⁴ SLD explained that program rules require that all six Blocks of the FCC Form 471 be submitted during the filing window in order for an application to be considered for priority funding. SLD stated that Watervliet's original submission did not include Block 6, the section of FCC Form 471 where applicants must sign the form and make certifications required under program rules.¹⁵ SLD further explained that because the January 18, 2001 deadline for filing FCC Forms 471 for Funding Year 2001 had passed, SLD would not be able to consider Watervliet's corrected FCC Form 471.¹⁶ Watervliet now asserts to the Commission that Block 6 of its FCC Form 471 was submitted with its original application.¹⁷

7. We have reviewed the record before us and conclude that SLD properly denied Watervliet's application. The original FCC Form 471 application in the record does not contain Block 6, and Watervliet has not submitted any evidence with its Request for Review indicating that the application it submitted was complete. Further, there is no evidence in the record that SLD received the relevant page of Watervliet's application during the filing window. Thus, in the absence of evidence to the contrary, we accept the FCC Form 471 in the record as the application which was received by SLD. "It is well established law that the absence of an official record of an event is evidence of the nonoccurrence of the event."¹⁸ In addition, we note that it is incumbent upon applicants to determine whether their applications are in compliance with program requirements prior to filing. The Wireline Competition Bureau (formerly known as the Common Carrier Bureau) has previously upheld the requirement that applicants submit a signed Block 6 Certification.¹⁹ We find no reason to depart from that standard, and in so doing, we reemphasize that the burden of ensuring that complete and accurate information is provided properly rests with the applicants themselves. We therefore deny Watervliet's Request for Review.

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Co., to John Heid, Watervliet School District, dated June 26, 2001 (Administrator's Decision on Appeal).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Request for Review.

¹⁸ *In re Application of Herbert L. Rippe*, 44 FCC Rcd 91 (Rev Bd. 1973).

¹⁹ *Request for Review by South Barber Unified School District 255, Federal State Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD 158897, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 18435 (Com. Car. Bur. 2001).

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed July 23, 2000, Watervliet School District, Watervliet, New York, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark Seifert", followed by a small, illegible mark.

Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau